

2011 DRAFTING REQUEST

Bill

Received: **02/07/2011**

Received By: **rkite**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget**

By/Representing: **steinmetz**

May Contact:

Drafter: **rkite**

Subject: **Environment - water quality**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Steinmetz, BB0331 -

Topic:

Stormwater discharge rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rkite 02/08/2011	kfollett 02/09/2011	rschluet 02/09/2011	_____	lparisi 02/09/2011		
/2	rkite 02/10/2011	kfollett 02/10/2011	rschluet 02/11/2011	_____	cduerst 02/11/2011		
/3	rkite 02/11/2011	wjackson 02/13/2011	jfrantze 02/14/2011	_____	sbasford 02/14/2011		

FE Sent For:

<END>

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/2	rkite 02/10/2011	kfollett 02/10/2011	rschluet 02/11/2011	_____	cduerst 02/11/2011		

FE Sent For:

1/3 wlj 2/13


2/1/11
<END>

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/?							
/1	rkite 02/08/2011	kfollett 02/09/2011 12/5f 2/10	rschluet 02/09/2011 2/10/11	Km3 J4 11	lparisi 02/09/2011		
FE Sent For:				<END>			

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Wanted: **As time permits**

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1/?	rkite	11/5/11 2/9/11	(1)	2/9/11			

FE Sent For:

<END>

Kite, Robin

From: Hanaman, Cathlene
Sent: Monday, February 07, 2011 9:23 AM
To: Kite, Robin; Gibson-Glass, Mary; Tradewell, Becky
Subject: FW: Statutory Language Drafting Request

From: DOADLBASADMININTERNETSHAREPOINT@WI.GOV
[mailto:DOADLBASADMININTERNETSHAREPOINT@WI.GOV]
Sent: Monday, February 07, 2011 9:10 AM
To: Hanaman, Cathlene
Cc: Hetzel, Shayna - DOA; Thornton, Scott - DOA; Steinmetz, Jana D - DOA; Steinmetz, Jana D - DOA
Subject: Statutory Language Drafting Request

Topic: Stormwater rules

Tracking Code: BB0331

SBO Team: AEJ

SBO Analyst: Steinmetz, Jana D - DOA
Phone: (608) 266-2081
E-mail: Jana.Steinmetz@Wisconsin.gov

Agency Acronym: DNR

Agency Number: 370

Priority: High

Intent:

Direct DNR to repeal NR151 and go back to the rule in place prior to its implementation. Direct DNR to abide by s. 283.11(2)(b) when drafting any new stormwater rule.

Attachments: False

2/7/2011



State of Wisconsin
2011 - 2012 LEGISLATURE



RM sur

LRB-1328

RNK...

DOA:.....steinmetz, BB0331 - Stormwater discharge rules

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

D-Note

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR is required to promulgate rules prescribing performance standards for facilities or practices that cause, or have the potential to cause, nonpoint source water pollution. Nonpoint source water pollution is water pollution that does not result from a discernible, confined, and discrete conveyance such as a pipe, well, or concentrated animal feeding operation.

This bill requires DNR to modify its nonpoint source water pollution rules that are in effect on this bill's effective date in such a manner that the rules are consistent with those rules in effect on December 31, 2010.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 9135. Nonstatutory provisions; Natural Resources.**

3 (1) NONPOINT SOURCE WATER POLLUTION RULES. (a) Not later than the first day
4 of the 4th month beginning after the effective date of this subsection, the department

SECTION 9135

1 of natural resources shall submit in proposed form rules under section 281.16 (2) of
2 the statutes to the legislative council staff under section 227.15 (1) of the statutes
3 that modify chapter NR 151, Wisconsin Administrative Code, in effect on the effective
4 date of this subsection. The proposed rules shall modify chapter NR 151, Wisconsin
5 Administrative Code, in such a manner that ^{the proposed rules are} it is consistent, except for necessary
6 technical corrections, with chapter NR 151, Wisconsin Administrative Code, in effect
7 on December 31, 2010.

8 (b) Using the procedure under section 227.24 of the statutes, the department
9 of natural resources shall promulgate the rules that modify chapter NR 151,
10 Wisconsin Administrative Code, in effect on the effective date of this subsection as
11 specified under paragraph (a) for the period before the effective date of the
12 permanent rule promulgated under ^{a.r.} section 281.16 (2) of the statutes, but not to exceed the
13 period authorized under section 227.24 (1) (c) of the statutes, subject to extension
14 under section 227.24 (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2)
15 (b), and (3) of the statutes, the department of natural resources is not required to
16 ^{provide} ~~provide~~ evidence that promulgating a rule under this subsection as an emergency
17 rule is necessary for the preservation of the public peace, health, safety, or welfare
18 and is not required to provide a finding of emergency for a rule promulgated under
19 this ~~subsection~~ ^{paragraph}

(END)

D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1328/7dn

RNK:...

Date

Jana Steinmetz:

X Please note that the language in this draft requires the Department of Natural Resources to promulgate rules that modify chapter NR 151, Wisconsin Administrative Code in a manner that is consistent with the rules that were previously in effect, except for any necessary technical corrections. This ensures that nonsubstantive changes, X such as updated addresses, are incorporated into the modified rule. Let me know if this language is O.K. *ls*

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1328/1dn
RNK:kjf:rs

February 9, 2011

Jana Steinmetz:

Please note that the language in this draft requires the Department of Natural Resources to promulgate rules that modify chapter NR 151, Wisconsin Administrative Code, in a manner that is consistent with the rules that were previously in effect, except for any necessary technical corrections. This ensures that nonsubstantive changes, such as updated addresses, are incorporated into the modified rules. Let me know if this language is O.K.

Robin N. Kite
Senior Legislative Attorney
Phone: (608) 266-7291
E-mail: robin.kite@legis.wisconsin.gov

Kite, Robin

From: Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]

Sent: Wednesday, February 09, 2011 3:46 PM

To: Kite, Robin

Subject: stormwater 1328/1

Robin,

Can we draft it to say the DNR must repeal and recreate NR 151 within 90 days of the budget and the new NR 151 cannot exceed federal standards (§283.11(2)(b))?

Also, the other stipulation to put in law is that the NR 151 stormwater rule cannot place a significant economic impact on a substantial number of local governments. The local units of government must be allowed to submit long term plans to comply with NR 151, not be required to comply by a fixed date.

NR 151 -
municipality - same as 281.01(6)

2/9/2011

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

1. 'Stage 1 requirements.' The municipalities identified under par. (a) shall implement all of the following within 2 years of receiving permit coverage under subch. I of ch. NR 216:

a. All of the requirements contained in sub. (1) (b).

b. A 20 percent reduction in total suspended solids, or to the maximum extent practicable, as compared to no controls, for runoff from existing development that enters waters of the state.

2. 'Stage 2 requirements.' The municipalities identified under par. (a) shall implement one of the following for runoff from existing development that enters waters of the state, as compared to no controls:

a. A 40 percent reduction in total suspended solids, by March 31, 2013, if permit coverage was received under subch. I of ch. NR 216 on or before January 1, 2010.

b. A 40 percent reduction in total suspended solids within 7 years of the date of receiving permit coverage for municipalities identified under par. (a), if permit coverage was received under subch. I of ch. NR 216 after January 1, 2010.

c. If a municipality identified under par. (a) has determined that it will not achieve a 40 percent reduction in total suspended solids in runoff that enters waters of the state as compared to no controls, by the applicable date of subd. 2. a. or b., then 6 months before the applicable date the municipality shall submit a report to the department describing the control measures that it has implemented and shall submit a long term storm water management plan in accordance with subd. 3.

3. 'Long term storm water management plan.' Plans shall include all of the following elements:

a. A baseline report showing the existing development boundary, drainage basins, and land uses; and applicable model results to justify the loading for total suspended solids for no controls and controls implemented by the applicable date in subd. 2. to meet the requirements in subd. 2. Modeling shall conform to that described in subd. 5.

b. Any agreements with an adjacent municipality, or with municipalities within a 10 digit hydrologic unit code level, to implement the 40 percent total suspended solids reduction on a regional basis per s. NR 216.07 (6).

c. Any long-term maintenance agreements with non-publicly owned control measures where credit for the total suspended solids reduction is included in the analysis.

d. An implementation plan and its associated timetable for control measures identified in a cost-effectiveness analysis consistent with subd. 3. f., that would result in achieving a 40 percent total suspended solids reduction within a period not to exceed 10 years from the applicable compliance date in subd. 2 unless documentation in subd. 3. e. is provided. The plan shall include modeling data consistent with subd. 5.

e. If a municipality has determined that it cannot achieve 40 percent total suspended solids reduction within 10 years from the applicable compliance date in subd. 2, including the use of agreements with other municipalities and long term maintenance agreements for non-public control measures, the plan shall demonstrate why 40 percent reduction cannot be achieved. A long term storm water management plan under this subdivision shall describe the control measures identified in a cost-effectiveness analysis consistent with subd. 3. f. that the municipality will implement within 10 years and document the amount of reduction that will be achieved. The plan shall also include an implementation plan and associated timetable for control measures identified in a cost-effectiveness analysis consistent with subd. 3. f. that would result in achieving a 40 percent total suspended solids reduction. The plan shall include modeling data consistent with subd. 5.

f. A cost-effectiveness analysis shall include a systematic comparison of alternatives to meet the 40 percent total suspended solids reduction based on the cost per pound of pollutant removed.

This analysis shall take into account anticipated redevelopment or reconstruction projects and the cost to retrofit the site versus the cost to install practices during redevelopment or reconstruction. The analysis shall consider the cost to ensure long term maintenance of non-publicly owned control practices for which the municipality is taking credit as well as publicly owned control practices, the source of funding for installation and maintenance of control measures, and competing interests for that funding source. The municipality may include an analysis of affordability in the cost-effectiveness analysis. The analysis shall consider the feasibility and commensurate increase in cost of installing a control measure where there are competing issues such as human safety and welfare, endangered and threatened resources, historic properties, and geographic features.

4. 'Long term plan review.' a. The department shall review the plan required under subd. 3. and provide comments within 6 months of receipt. The municipality shall modify the plan to correct any deficiencies identified by the department.

b. The department shall accept documentation that demonstrates to the department's satisfaction that the 40 percent reduction will be met by the applicable compliance date of subd. 2.

c. The department shall review plans where the 40 percent reduction can be made within the schedule proposed by the municipality under subd. 3. d. However, the department upon review of the plan may request a modification of the schedule or control measures if the department determines that control measures can achieve the 40 percent reduction within a shorter timeframe. The department shall include in the acceptance of the plan the provision in subd. 4. e.

d. The department shall review a plan with an extended timetable beyond 10 years from the applicable compliance date in subd. 2. where the municipality has demonstrated to the department's satisfaction that the 40 percent reduction cannot be made within 10 years from the applicable compliance date in subd. 2. However, upon review of the plan the department may request a modification of the schedule or control measures if the department determines that control measures can achieve the 40 percent reduction within a shorter timeframe than proposed by the municipality. The department shall include in the acceptance of the plan the provision in subd. 4. e.

e. The municipality shall submit a report on an initial schedule set by the department and every 5 years thereafter documenting progress and reviewing whether changes in land use, local regulations, control technology or other factors have affected the use or timing of control measures meeting the performance standard of subd. 2. The report shall include a modeling analysis documenting progress and recommending any changes in control measures or timetables for achieving a 40 percent reduction.

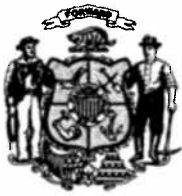
5. 'Model requirements.' Evidence of meeting the performance standard of subd. 2. shall be based on the use of a model or an equivalent methodology approved by the department. Acceptable models and model versions include SLAMM version 9.2 and P8 version 3.4 or subsequent versions of those models. Earlier versions of SLAMM are acceptable when the municipality is not taking any credit for street cleaning.

Note: Information on how to access SLAMM and P8 and the relevant parameter files are available at: <http://dnr.wi.gov/runoff/models/index.htm> or by contacting the department's storm water management program at (608) 267-7694.

Note: It is expected that a municipality will be able to achieve the 40 percent reduction with a combination of practices including the use of high efficiency street cleaning, structural BMP retrofit practices, structural BMP redevelopment or reconstruction practices, and entering into maintenance agreements for BMPs on privately owned lands, such as shopping centers, to receive credit.

(c) *Location.* To comply with the standards required under this subsection, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003.

(d) *Exemption.* The requirements of par. (b) 1. and 2. do not apply to areas subject to a permit issued under subch. II of ch. NR 216.



State of Wisconsin
2011 - 2012 LEGISLATURE

RM run
2

LRB-1328/2
RNK:kjf:rs

DOA:.....Steinmetz, BB0331 - Stormwater discharge rules

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

In
2/10

Don't Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR is required to promulgate rules prescribing performance standards for facilities or practices that cause, or have the potential to cause, nonpoint source water pollution. Nonpoint source water pollution is water pollution that does not result from a discernible, confined, and discrete conveyance such as a pipe, well, or concentrated animal feeding operation.

This bill requires DNR to modify its nonpoint source water pollution rules that are in effect on this bill's effective date in such a manner that the rules are consistent with those rules in effect on December 31, 2010.

Insert
Analysis

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 9135. Nonstatutory provisions; Natural Resources.**

3 (1) NONPOINT SOURCE WATER POLLUTION RULES.

4 (a) Not later than the first day of the 4th month beginning after the effective
5 date of this subsection, the department of natural resources shall submit proposed

promulgate

that repeal
and recreate

1 rules under section 281.16 (2) of the statutes to the legislative council staff under
2 section 227.15 (1) of the statutes that modify chapter NR 151, Wisconsin

3 Administrative Code, in effect on the effective date of this subsection. The proposed

repealed and recreated

4 rules shall modify chapter NR 151, Wisconsin Administrative Code, in such a

5 manner that the proposed rules are consistent, except for necessary technical

6 corrections, with chapter NR 151, Wisconsin Administrative Code, in effect on

7 December 31, 2010. shall take effect 90 days after the
effective date of this paragraph

8 (b) Using the procedure under section 227.24 of the statutes, the department

9 of natural resources shall promulgate the rules that modify chapter NR 151,

10 Wisconsin Administrative Code in effect on the effective date of this subsection as

11 specified under paragraph (a) for the period before the effective date of the

12 permanent rules promulgated under section 281.16 (2) of the statutes, but not to

13 exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to

14 extension under section 227.24 (2) of the statutes. Notwithstanding section 227.24

15 (1) (a), (2) (b), and (3) of the statutes, the department of natural resources is not

16 required to provide evidence that promulgating a rule under this subsection as an

17 emergency rule is necessary for the preservation of the public peace, health, safety,

18 or welfare and is not required to provide a finding of emergency for a rule

19 promulgated under this paragraph.

INSERT
2-19

20

(END)

and shall be no more stringent than the
requirements under the federal water
pollution control act, 33 USC 1251 to 1387,
and regulations adopted under that act

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1328/2ins.
RNK:.....

INSERT ANALYSIS

X This bill requires DNR to repeal and recreate its nonpoint source water pollution rules effective 90 days after this bill's effective date. The bill specifies that the rules may not be more stringent than the requirements under the Federal Water Pollution Control Act. The bill also specifies that, to the extent allowed under federal law, if DNR's rules require certain municipalities to achieve a 40 percent reduction in total suspended solids for runoff from existing development, the rules may not establish a deadline by which those municipalities must achieve that reduction.

INSERT 2-19

- PS: 1 ~~text: NS: 1~~ (b) 1. In this paragraph: ✓
fix these components
text: NS: 3
subpart 4
5
6
7
8
9
10
11
12
- needs to be a NS: text: subd. ✓
a. "Covered municipality" means a municipality for which the department
granted coverage under a general permit on or before January 1, 2010. ✓
b. "General permit" means a general permit issued under section 283.35 of the
statutes. ✓
c. Municipality has the meaning given in section 281.01 (6) of the statutes. ✓
2. To the extent allowed under federal law, if the rules promulgated under
paragraph (a) require a municipality to develop and implement a storm water
management program that requires the municipality to achieve a 40 percent
reduction in total suspended solids for runoff from existing development that enters
the waters of the state, the rules may not establish a deadline by which the
municipality must achieve that reduction. ✓
- covered ✓
covered ✓
covered ✓

Kite, Robin

From: Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]
Sent: Friday, February 11, 2011 1:21 PM
To: Kite, Robin
Subject: RE: stormwater

Good catch. Can you just take out "on or before January 1, 2010"?

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Friday, February 11, 2011 1:16 PM
To: Steinmetz, Jana D - DOA
Subject: RE: stormwater

Jana – Is the definition that I created in the draft for "covered municipality" accurate? I am now wondering, based on the revised instructions, if the draft is supposed to apply to all municipalities that are covered under a general permit **and not just those that were granted coverage under a permit before January 1, 2010.** I want to make sure that the draft is not more narrow than intended.

Robin

From: Steinmetz, Jana D - DOA [mailto:Jana.Steinmetz@Wisconsin.gov]
Sent: Friday, February 11, 2011 11:56 AM
To: Kite, Robin
Subject: RE: stormwater

Yes, I agree.

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Friday, February 11, 2011 11:51 AM
To: Steinmetz, Jana D - DOA
Subject: RE: stormwater

Another thing: shouldn't the language specify that the economic impact must be an adverse impact? That is, the municipality may not be required to comply with a deadline if the municipality determines that compliance would have a significant "adverse" economic impact on the municipality. Do you agree?

Robin

From: Steinmetz, Jana D - DOA [mailto:Jana.Steinmetz@Wisconsin.gov]
Sent: Friday, February 11, 2011 11:29 AM
To: Kite, Robin
Subject: RE: stormwater

How about "minimum reduction" since there are ways other than % to achieve a reduction?

From: Kite, Robin [mailto:Robin.Kite@legis.wisconsin.gov]
Sent: Friday, February 11, 2011 11:23 AM
To: Steinmetz, Jana D - DOA
Subject: RE: stormwater

2/11/2011

Jana:

I don't think the term "numeric standard" is very clear. What about "a minimum percentage reduction"? Do you think that would be O.K.?

Robin

From: Steinmetz, Jana D - DOA [mailto:Jana.Steinmetz@Wisconsin.gov]
Sent: Friday, February 11, 2011 10:58 AM
To: Kite, Robin
Subject: FW: stormwater

Robin,

Would this work?

From: Hurlburt, Waylon - GOV
Sent: Friday, February 11, 2011 10:30 AM
To: Steinmetz, Jana D - DOA
Subject: RE: stormwater

Please change the bill language to read more like this:

"The bill also specifies that, to the extent allowed under federal law, if DNR's rules require certain municipalities to achieve a ~~40 percent~~ numeric standard reduction in total suspended solids for runoff from existing development, the rules may not establish a deadline by which those municipalities must achieve that reduction if that deadline imposes a significant economic impact to those municipalities as determined by the municipality."

Waylon Hurlburt
Senior Policy Advisor
The Office of Governor Scott Walker
State of Wisconsin
(608)266-9709

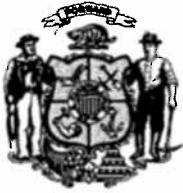
From: Steinmetz, Jana D - DOA
Sent: Friday, February 11, 2011 10:20 AM
To: Hurlburt, Waylon - GOV
Subject: stormwater

Waylon,

Here is the latest draft on stormwater rules. Let me know if this works.

Thanks,
Jana

2/11/2011



State of Wisconsin
2011 - 2012 LEGISLATURE



Rm run

LRB-1328/2

RNK:kjfrs

3
TWLJ

DOA:.....Steinmetz, BB0331 - Stormwater discharge rules

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

To
2-11

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR is required to promulgate rules prescribing performance standards for facilities or practices that cause, or have the potential to cause, nonpoint source water pollution. Nonpoint source water pollution is water pollution that does not result from a discernible, confined, and discrete conveyance such as a pipe, well, or concentrated animal feeding operation.

This bill requires DNR to repeal and recreate its nonpoint source water pollution rules effective 90 days after this bill's effective date. The bill specifies that the rules may not be more stringent than the requirements under the federal Water Pollution Control Act. The bill also specifies that, to the extent allowed under federal law, if DNR's rules ~~require~~ certain municipalities ^{to} achieve a ~~40 percent~~ reduction in total suspended solids for runoff from existing development, the rules may not establish a deadline by which those municipalities must achieve that reduction. ^{insert} ^{minimum} ^{Analysis}

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 9135. Nonstatutory provisions; Natural Resources.

establish a deadline by fixing a date by which

(1) NONPOINT SOURCE WATER POLLUTION RULES.

(a) The department of natural resources shall promulgate rules under section 281.16 (2) of the statutes that repeal and recreate chapter NR 151, Wisconsin Administrative Code, in effect on the effective date of this subsection. The repealed and recreated rules shall take effect 90 days after the effective date of this paragraph and shall be no more stringent than the requirements under the federal Water Pollution Control Act, 33 USC 1251 to 1387, and regulations adopted under that act.

(b) 1. In this paragraph:

a. "Covered municipality" means a municipality for which the department granted coverage under a general permit on or before January 1, 2010.

b. "General permit" means a general permit issued under section 283.35 of the statutes.

c. "Municipality" has the meaning given in section 281.01 (6) of the statutes.

~~2. To the extent allowed under federal law, if the rules promulgated under paragraph (a) ^{establish a deadline by which} require a covered municipality ^{to} develop and implement a storm water management program that requires the covered municipality to achieve a ^{minimum} 40 percent reduction in total suspended solids for runoff from existing development that enters the waters of the state, the rules may not establish a deadline by which the covered municipality must achieve that reduction.~~

(END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

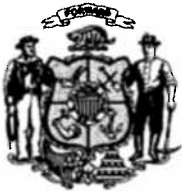
LRB-1328/3ins.
RNK:.....

INSERT ANALYSIS

mod must also provide that the ~~deadline~~ ^{*a 90-day fixed date*} does not apply to a municipality that determines that compliance with the deadline would have a significant adverse economic impact on that municipality

INSERT 2-20

- 1 *C.*
2 *d.* "Storm water management program" means a program that requires a
3 covered municipality to achieve a minimum reduction in total suspended solids for
4 runoff from existing development that enters the waters of this state.
5 *Use A.R.A.* 2. To the extent allowed under federal law, if the rules promulgated under
6 paragraph (a) establish a deadline ^{*by fixing a date*} by which a covered municipality must develop and
7 implement a storm water management program, the rules shall also provide that the
8 deadline for developing and implementing a storm water management program does
9 not apply to a covered municipality that determines that compliance with the
deadline would have a significant adverse economic impact on that municipality.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-1328/3
RNK:kjf&wlj:jf

DOA:.....Steinmetz, BB0331 - Stormwater discharge rules

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

WATER QUALITY

Under current law, DNR is required to promulgate rules prescribing performance standards for facilities or practices that cause, or have the potential to cause, nonpoint source water pollution. Nonpoint source water pollution is water pollution that does not result from a discernible, confined, and discrete conveyance such as a pipe, well, or concentrated animal feeding operation.

This bill requires DNR to repeal and recreate its nonpoint source water pollution rules effective 90 days after this bill's effective date. The bill specifies that the rules may not be more stringent than the requirements under the federal Water Pollution Control Act. The bill also specifies that, to the extent allowed under federal law, if DNR's rules establish a deadline by fixing a date by which certain municipalities must achieve a minimum reduction in total suspended solids for runoff from existing development, the rules must also provide that the fixed-date deadline does not apply to a municipality that determines that compliance with the deadline would have a significant adverse economic impact on that municipality.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 9135. Nonstatutory provisions; Natural Resources.

(1) NONPOINT SOURCE WATER POLLUTION RULES.

(a) The department of natural resources shall promulgate rules under section 281.16 (2) of the statutes that repeal and recreate chapter NR 151, Wisconsin Administrative Code, in effect on the effective date of this subsection. The repealed and recreated rules shall take effect 90 days after the effective date of this paragraph and shall be no more stringent than the requirements under the federal Water Pollution Control Act, 33 USC 1251 to 1387, and regulations adopted under that act.

(b) 1. In this paragraph:

a. "Covered municipality" means a municipality for which the department of natural resources granted coverage under a general permit issued under section 283.35 of the statutes.

b. "Municipality" has the meaning given in section 281.01 (6) of the statutes.

c. "Storm water management program" means a program that requires a covered municipality to achieve a minimum reduction in total suspended solids for runoff from existing development that enters the waters of this state.

2. To the extent allowed under federal law, if the rules promulgated under paragraph (a) establish a deadline by fixing a date by which a covered municipality must develop and implement a storm water management program, the rules shall also provide that the deadline for developing and implementing a storm water management program does not apply to a covered municipality that determines that compliance with the deadline would have a significant adverse economic impact on that municipality.

(END)